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Insurance Authority

Recent Update of the Guideline on Anti-Money Laundering and Counter-Terrorist Financing

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Purposes of recent revision to GL3

- Better align with latest **international requirements**, including the Financial Action Task Force (FATF) Recommendations
- Better facilitate implementation of the **Risk-based approach**
- Address **implementation challenges** of certain requirements
- More broadly consistent with other **financial centres**
- Reduce unintentional barriers to the **use of technology** in the AML/CFT systems

Chapter 1 - Overview

Legislations concerned with money laundering, terrorist financing, proliferation financing and financial sanctions

Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615)
《打擊洗錢及恐怖分子資金籌集條例》(第615章)

Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405)
《販毒(追討得益)條例》(第 405章)

Organized and Serious Crimes Ordinance (Cap. 455)
《有組織及嚴重罪行條例》(第455章)

United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575)
《聯合國(反恐怖主義措施)條例》(第575章)

Chapter 1 - Overview

Legislations concerned with money laundering, terrorist financing, proliferation financing and financial sanctions

United Nations Sanctions Ordinance (Cap. 537)
《聯合國制裁條例》(第537章)

- Imposition of sanctions against persons and against places outside China;
- Most of United Nations Security Council Resolutions are implemented in Hong Kong.

Weapons of Mass Destruction (Control of Provision of Services) Ordinance (Cap. 526)
《大規模毀滅武器(提供服務的管制)條例》(第526章)

- Control the provision of services that will/may assist the development, production, acquisition or stockpiling of weapons capable of causing mass destruction or that will/may assist the means of delivery of such weapons.

Chapter 1 - Overview

Consequences of failure to comply with GL3:

An authorized insurer or reinsurer

- Adversely affect on the **fitness and properness** of its directors and controllers
- **Disciplinary action**

Licensed individual insurance agent

- Adversely affect on the **fitness and properness** of the licensed individual insurance agent
- **Disciplinary action**

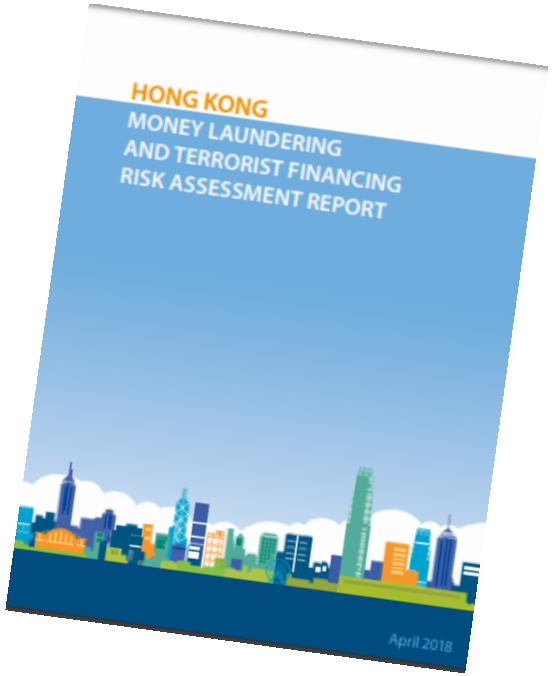
Licensed insurance agency or Licensed insurance broker company

- Adversely affect on the **fitness and properness** of its controller(s), director(s) and responsible officer(s)
- **Disciplinary action**

Chapter 1 - Overview

Relevant risk assessments may be issued from time to time, specifying:

- ML/TF threats in insurance industry identified
- ML/TF vulnerabilities in insurance industry identified



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Source:
The latest report can be found on the Government's website.
https:/www.fstb.gov.hk/fsb/aml/en/risk-assessment.htm

Chapter 2 – Risk-based approach (RBA)

Institutional ML/TF risk assessment (IRA)

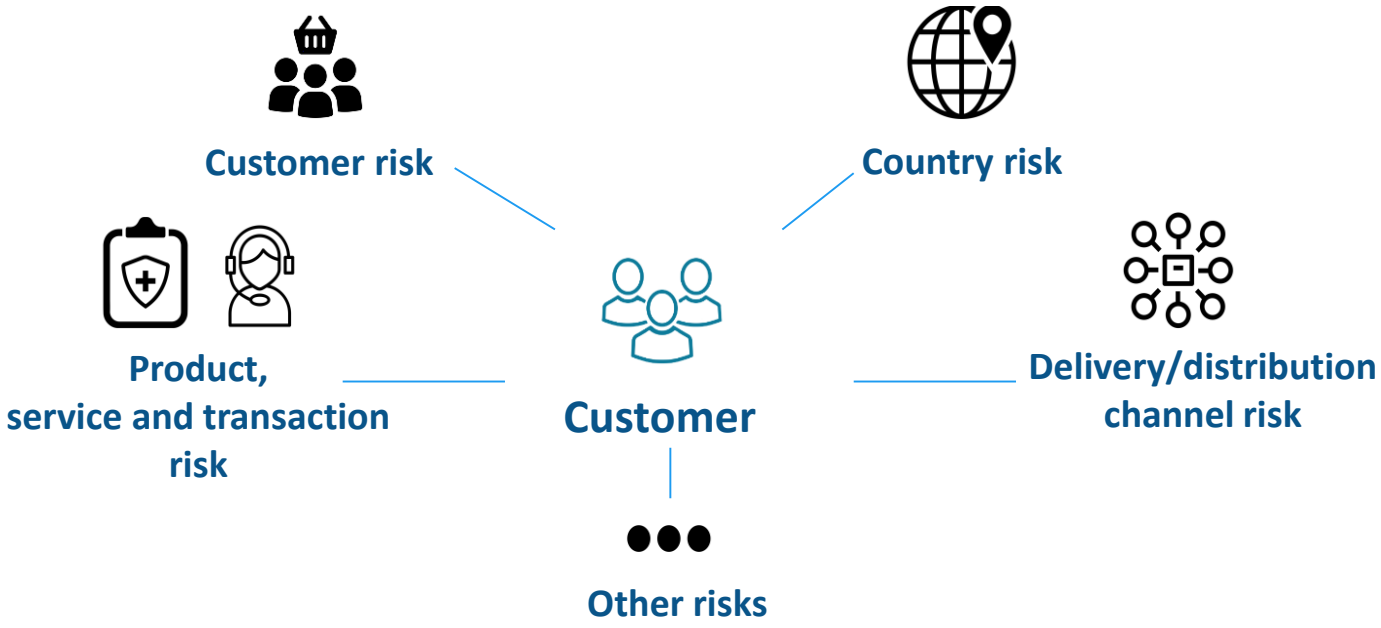
IRA

RBA	• It forms the basis of the RBA, enabling an II to understand how and to what extent it is **vulnerable to ML/TF**.
Scale and scope	• The scale and scope of the institutional ML/TF risk assessment should be **commensurate with the nature, size and complexity** of the II's business.
Timing	• An II should conduct its assessment **every two years and upon trigger events** which are material to the II's business and risk exposure.
Senior management approval	• Documenting and obtaining the **approval of senior management** on the risk assessment results.

Chapter 2 – Risk-based approach (RBA)

Customer risk assessment

Based on a **holistic view** of the information obtained in the context of the application of CDD measures, an II should be able to finalize the customer risk assessment.



Chapter 2 – Risk-based approach (RBA)

Customer risk assessment

- An II should keep records and relevant documents of its customer risk assessments so that it can **demonstrate to the IA**, among others:
  - **how it assesses** the customer's ML/TF risks; and
  - **the extent of CDD measures** and ongoing monitoring is appropriate based on that customer's ML/TF risks.

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Chapter 2 – Risk-based approach (RBA)

New products, new business practices and use of new technologies

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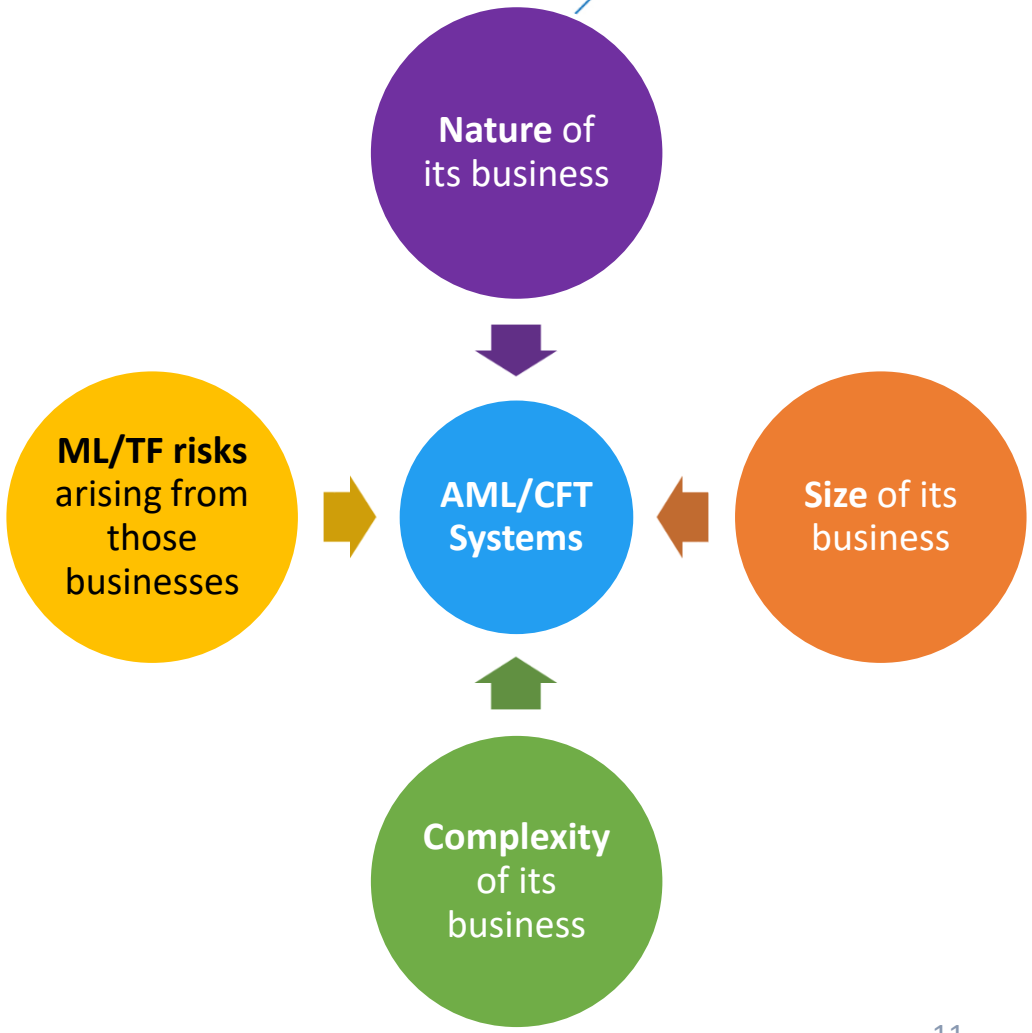
Chapter 3 – AML/CFT Systems

An II should implement AML/CFT Systems (i.e. AML/CFT policies, procedures and controls) having regard to the **nature, size and complexity** of its business and the **ML/TF risks** arising from those businesses.



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Chapter 3 – AML/CFT Systems

Compliance management arrangements & independent audit function

Appointment of a **Compliance Officer (CO)**

Oversight by the II's **senior management**

Appointment of a **Money Laundering Reporting Officer (MLRO)**

Subject to constraint of size of the II, **independent** of all operational and business functions

An II should implement an **independent audit function** having regard to the **nature, size and complexity** of its business and the ML/TF risks arising from those businesses

Depending on the size of an II, the functions of CO and MLRO may be performed by the **same person**

Chapter 3 – AML/CFT Systems

Group-wide AML/CFT system for a **HK-incorporated II**

Sharing information required for the purposes of CDD and ML/TF risk management

This requirement is subject to the **extent permitted by the laws and regulations of the jurisdictions** involved and subject to **adequate safeguards** on the protection of confidentiality and use of information being shared, including safeguards to prevent tipping off.

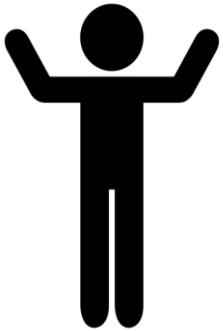
Provision to the II's group-level compliance, audit and/or AML/CFT functions, of **customer, account, and transaction information** from its overseas branches and subsidiary undertakings that carry on the same business as an FI as defined in the AMLO, when necessary for AML/CFT purposes.

Chapter 4 – Customer Due Diligence

Natural Person:

– To obtain **all** the following identification information:-

(a) full name;
(b) date of birth;
(c) nationality;
(d) unique identification number and document type; and
(e) residential address



– To verify the identity by reference to documents, for example:-

(a) Hong Kong identity card or other national identity card; or
(b) valid travel document (e.g. unexpired passport).

Chapter 4 – Customer Due Diligence

Legal Person:

– To obtain **all** the following identification information:-

(a) full name;

(b) date of incorporation, establishment or registration;

(c) place of incorporation, establishment or registration (including address of registered office);

(d) unique identification number (e.g. incorporation number or business registration number) and document type; and

(e) principal place of business (if different from the address of registered office).

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Chapter 4 – Customer Due Diligence

Legal Person (cont'd):

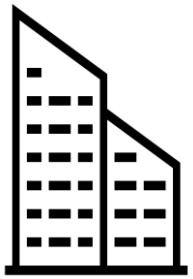
– To verify its name, legal form, current existence (at the time of verification) and powers that regulate and bind the legal person by reference to documents, for example:-

(a) certificate of incorporation;

(b) record in an independent company registry; or

(c) constitutional document

– In some instances, an II may need to obtain **more than one document to meet this requirement**. For example, a certificate of incorporation can only verify the name and legal form of the legal person in most circumstances but cannot act as a proof of current existence.

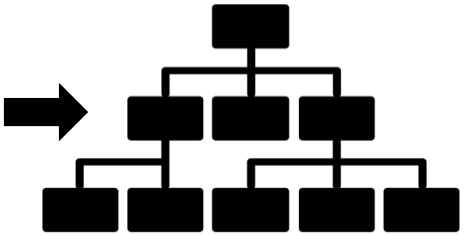


Chapter 4 – Customer Due Diligence

Intermediate layers:

- While an II needs to identify any intermediate layers, but it needs **not always verify the details of the intermediate companies** in the ownership structure.

- An II should determine on a risk-sensitive basis the amount of information to be collected to identify each legal person or legal arrangement in the intermediate layer of a customer's ownership and control structure, which **at a minimum should include their names**.



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Chapter 4 – Customer Due Diligence

Beneficial owner in relation to a Legal Person

Identity identification

- Identify any natural person who ultimately has a controlling ownership interest (i.e. **more than 25%**) in the legal person; and
- Identify any natural person **exercising control** of the legal person or its management; and
- II may obtain an **undertaking or declaration** from the customer on the identity of, and the information relating to, its beneficial owner.

Identity verification

- Take **reasonable measures to verify** their identities.
- For example, corroborating the undertaking or declaration with **publicly available information**

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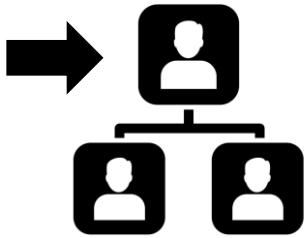

Chapter 4 – Customer Due Diligence

A person purporting to act on behalf of the customer (PPTA)

- Whether the person is considered to be a person purporting to act on behalf of the customer should be determined based on **the nature of that person's roles and the activities** which the person is authorized to conduct, as well as the ML/TF risks associated with these roles and activities

- To implement **clear policies and procedures** for determining who is considered to be a PPTA

- To verify the **identity** of the PPTA, and his/her **authority** by appropriate documentary evidence (e.g. board resolution or similar written authorization).

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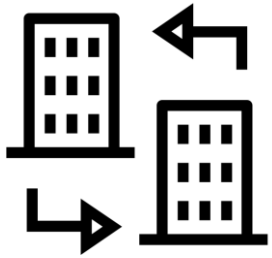
Chapter 4 – Customer Due Diligence

Connected party

- To identify all the connected parties of the customer by **obtaining their names**.
- Connected parties are, for example
  - **directors** of corporations;
  - **partners** of partnerships; and
  - **trustees** (or equivalent) of trusts or other similar legal arrangements

- The **screening requirements** set out in Chapter 6 should extend to connected parties and PPTAs of a customer using an RBA.



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Chapter 4 – Customer Due Diligence

Policy beneficiary

- An II should be required to take reasonable measures to determine whether a beneficiary or a beneficial owner of a beneficiary for an insurance policy is a **politically exposed person**.

- An II should obtain the **residential address** information of a beneficiary that is a natural person.

- An II should include the beneficiary as a relevant **risk factor** in determining whether enhanced due diligence measures are applicable

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Chapter 4 – Customer Due Diligence

Enhanced Due Diligence (EDD) for High Risk Situations

- To obtain **approval from its senior management** to establish or continue a business relationship that presents a high ML/TF risk.

- Examples of potentially **higher risk factors** include:
  - Legal persons or legal arrangements that involve a **shell vehicle** without a clear and legitimate commercial purpose;
  - **Cash intensive business**;
  - The customer or the beneficial owner of the customer is a **foreign politically exposed person;**
  - Frequent payments received from **unknown or un-associated third parties**; or
  - Countries or jurisdictions subject to **sanctions, embargoes** or similar measures issued by, for example, the United Nations.

Chapter 4 – Customer Due Diligence

Enhanced Due Diligence (EDD) for High Risk Situations (cont'd)

- Examples of possible EDD measures include:
  - obtaining **additional information on the customer** (e.g. occupation, volume of assets, information available through public databases, internet, etc.), and updating more regularly the identification data of customer and beneficial owner; or
  - obtaining information on the **source of wealth or source of funds** of the customer.
- examples of information useful for verifying customer's source of wealth and source of funds include **publicly available property registers, land registers, asset disclosure registers, company registers, and other sources of information about legal and beneficial ownership**, where available.

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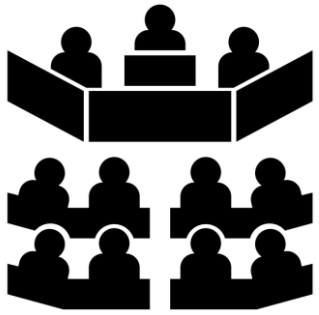
Chapter 4 – Customer Due Diligence

International Organization Politically Exposed Person (PEP)

- An individual who is or has been entrusted with a prominent function by **an international organization…**(see paragraph 4.11.13).
- International organizations are entities established by formal political agreements between their member States that have the status of international treaties; their existence is recognized by law in their member countries; and they are not treated as resident institutional units of the countries in which they are located.
- Examples:-
  - **United Nations 聯合國**
  - **International Maritime Organization 國際海事組織**
  - **Council of Europe 歐洲理事會**
  - **North Atlantic Treaty Organization 北大西洋公約組織**
  - **World Trade Organization 世界貿易組織**



Chapter 4 – Customer Due Diligence

Foreign vs. Domestic and International Organization PEP

- EDD measures (see paragraph 4.11.11) are required for a foreign PEP.
- EDD measures are required for a domestic PEP and an international organization PEP with **high risk business relationship**.
- If a PEP is no longer entrusted with a prominent public function:-

  a) For a foreign PEP → to adopt an RBA in determining the **extent of EDD measures** taking into account factors like the level of influence after stepping down from the prominent public function.

  b) For a domestic / international organization PEP → to adopt an RBA to **determine whether to apply or continue to apply the EDD measures,** and obtain an **approval from its senior management** for such a decision.

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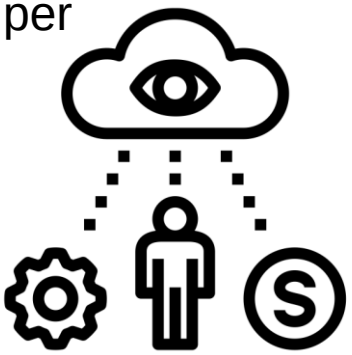
Chapter 5 – Ongoing Monitoring

- An II should ensure that the transaction monitoring systems and processes can provide all relevant staff who are tasked with conducting transaction monitoring and investigation with **timely and sufficient information required** to identify, analyze and effectively monitor customers' transactions.
- An II should ensure that the transaction monitoring systems and processes can support the ongoing monitoring of a business relationship in a **holistic approach.**
- An example is to monitor transactions on a **per person basis** and on a **per insurance intermediary basis.** For insurance policies involving trust arrangements, it may be more appropriate to capture suspicious transactions arising from a **per trust settlor basis**, besides a per trust/trustee basis.



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Chapter 6 – Terrorist Financing, Financial Sanction and Proliferation Financing

Screening database maintenance

- An II should ensure that countries, individuals and entities included in **UNSCRs and sanctions lists** are included in the database as soon as practicable after they are promulgated by the UNSC and **regardless of whether the relevant sanctions have been implemented by legislation in Hong Kong**.
- An II should implement an effective screening mechanism, which should include screening its customers and any beneficial owners of the customers against:-

  (a) current database **at the establishment of the relationship**; and

  (b) all new and any updated designations to the database **as soon as practicable**

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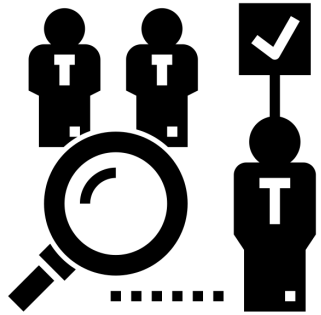
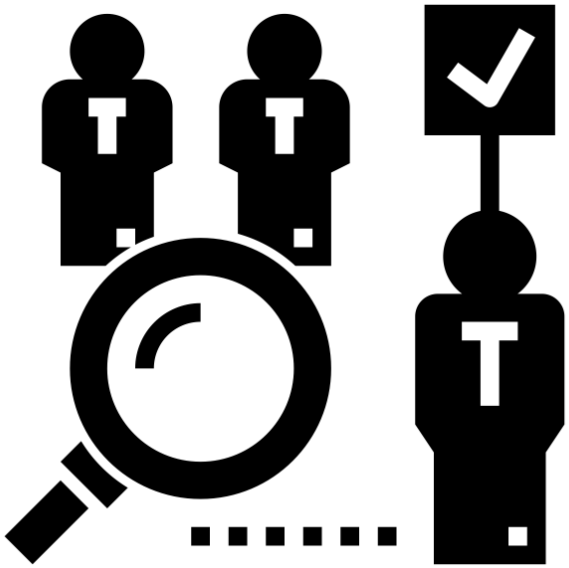


Chapter 6 – Terrorist Financing, Financial Sanction and Proliferation Financing

- The screening requirements should extend to **connected parties and PPTAs** of a customer using an Risk Based Approach.

- An II may rely on its **overseas office** to maintain the database or to undertake the screening process. However, the II is reminded that the ultimate responsibility for ensuring compliance with the relevant regulations and legislation on TF, financial sanctions and PF remains with the II.



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Chapter 7 – Suspicious Transaction Reports and Law Enforcement Requests

- An II should ensure STRs filed to the JFIU are of **high quality** taking into account feedback and guidance provided by the JFIU in its quarterly report and the IA from time to time.

  https://www.ia.org.hk/en/supervision/antimoney_laundering/suspicious_transactions_reporting_to_JFIU.html
- When an II receives a request from a law enforcement agency, e.g. **search warrant or production order**, in relation to a particular customer or business relationship, the II should assess the risks involved and the need to conduct an **appropriate review** on the customer or the business relationship to determine whether there is any suspicion and should also be aware that the customer subject to the request can be a victim of crime.

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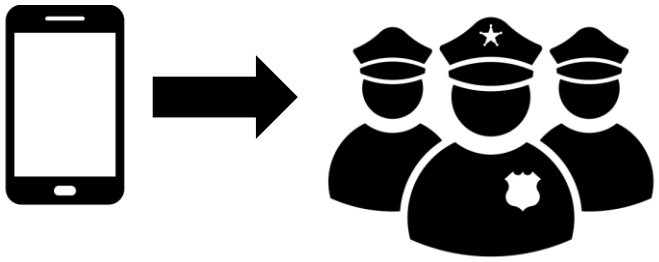
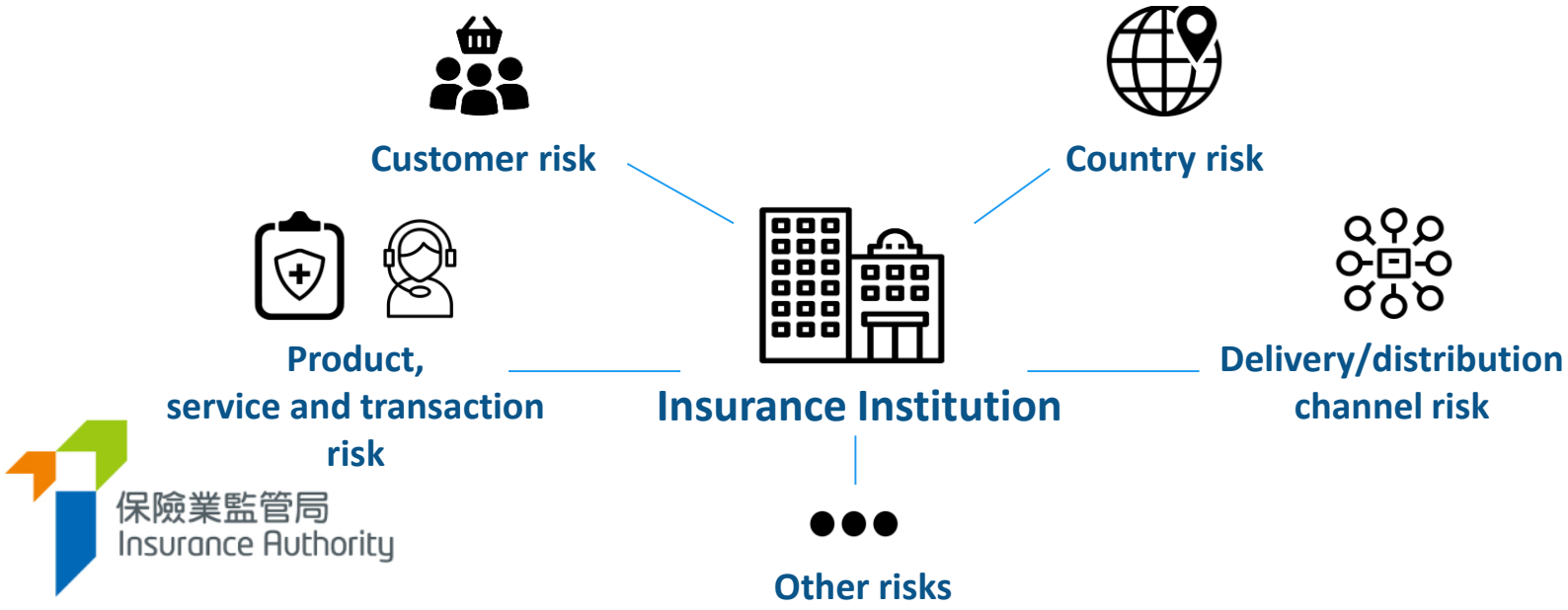


Institutional ML/TF Risk Assessment (IRA)

- Forms the basis of RBA
- Scale and scope of IRA should **commensurate with nature, size and complexity** of II's business
- II should conduct IRA to **identify**, **assess** and **understand** its ML/TF risks



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IRA – Risk Factors

Customer Risk Factors:

- Targeted market and customer segments
- Number and proportion of customers identified as high risk

Risk attributes	Higher risk examples
 Customer base growth	Rapid growth and/or turn-over of customer base in terms of amount and customer diversity (e.g. offshore & HNW customers)
 Political exposure	Customer or the beneficial owner is a Politically Exposed Person

IRA – Risk Factors

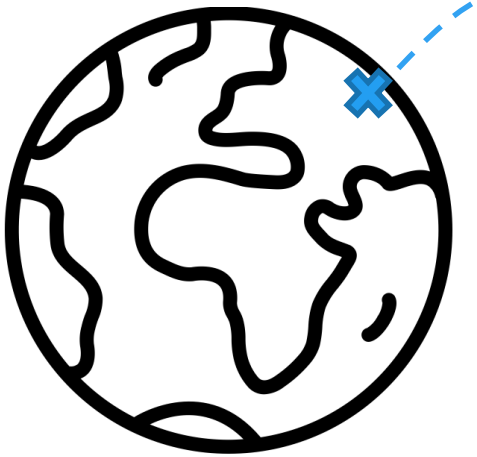
Customer Risk Factors: (cont'd)

Risk attributes	Higher risk examples
 Source of funds/wealth (including occupation/ business type)	Customers engaging in high risk industry (e.g. cash intensive business)
 Legal form	Legal entity with complex structure difficult to identify beneficial owner
⋮ Other factors	History of STR to JFIU/ predicate offences/ associated with negative news

IRA – Risk Factors

Country Risk Factors:

- Countries / jurisdictions it is exposed to, either through its own activities or the activities of customers



Countries or jurisdictions identified by credible sources with relatively **higher level of corruption** or **organized crime**, and/or not having effective AML/CFT system

FATF

e.g. Jurisdictions subject to a call by the **FATF** (e.g. DPRK and Iran)

IRA – Risk Factors

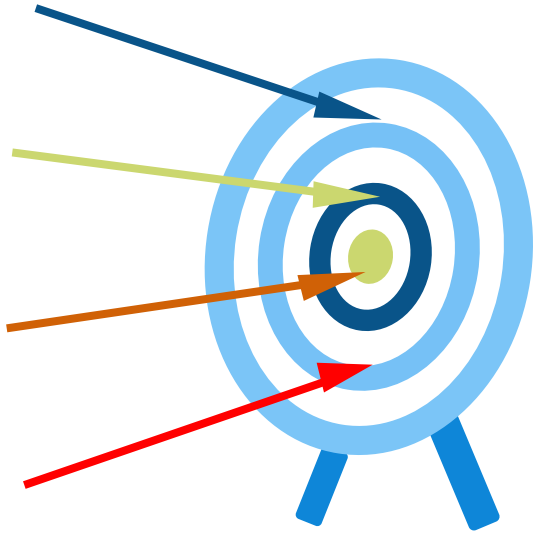
Product, service, transaction or delivery/distribution channel risk factors:

01 Nature, scale, diversity and complexity of its business

02 Characteristics of products and services offered, and the extent to which they are vulnerable to ML/TF abuse

03 Volume and size of transactions

04 The extent to which the II deals directly with the customer, the extent to which the II relies on (or is allowed to rely on) third party to conduct CDD, the extent to which the II uses technology, and the extent to which the delivery/distribution channels are vulnerable to ML/TF abuse



IRA – Risk Factors

Product and Service Risk:

Risk attributes	Higher risk examples
 Complex products for investment and/or with returns linked to the performance of an underlying financial asset	Offer the ability to hold large funds/assets, control full/partial underlying investments (e.g. Universal life/ILAS)
 Flexibility of payments	Products allow high-value premium payments, overpayments (e.g. Universal life/ILAS)

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IRA – Risk Factors

Product and Service Risk:

Risk attributes	Higher risk examples
 Easy access to accumulated funds	Products allow partial withdrawals or early surrender with limited charges or fees (e.g. Universal life/ILAS)
 Negotiability	Products can be used as collateral for a loan (e.g. Universal life)

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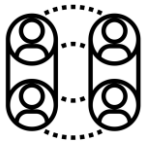
IRA – Risk Factors

Distribution Channel Risk:

Risk attributes	Higher risk examples
 Payment to life insurer	Customer pays an insurance intermediary who then pay the life insurer
 Direct relationship of customer to life insurer	No face-to-face relationship with life insurer employee or an insurance intermediary, without adequate safeguards for confirmation of identification (e.g. online or telephone sales)

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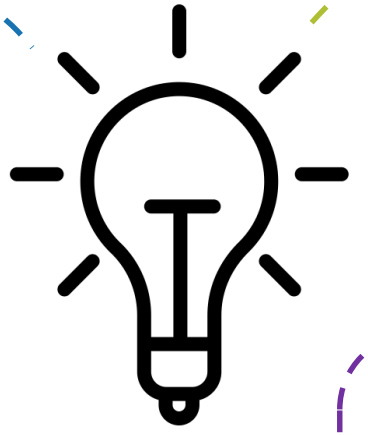
IRA – Risk Factors

Other risks:

Compliance and regulatory findings

Internal/external audit results



Hong Kong's jurisdiction-wide ML/TF risk assessment and any higher risks notified to the IIs by the IA

Nature, scale and quality of available ML/TF risk management resources (including appropriately qualified staff with access to ongoing AML/CFT training and development)

Source: FATF Risk-based Approach Guidance for the Life Insurance

Steps to conduct IRA

1

Document risk assessment process

- Identification and assessment of risks supported by qualitative and quantitative analysis
- Information obtained from internal and external sources

2

Consider relevant risk factors

- For determining the overall risk level and appropriate level and type of mitigation to be applied

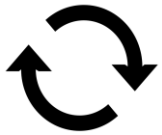
3

Obtain senior management's approval

- e.g. Chief Executive

Steps to conduct IRA

4



Keep IRA results up-to-date

- II should conduct IRA every 2 years and upon trigger events* which are material to the II's business and risk exposure

*e.g. acquisition of new customer segments, or launch of new product, services and delivery/distribution channels

5

Provide IRA results to IA when required

- E.g. AML inspection

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Other Requirements

Locally-incorporated II with branches and subsidiaries (including **overseas**)

→ Should perform a **group-wide ML/TF risk assessment**

II is part of a **financial group & Group-wide/Regional-wide ML/TF risk assessment** has been conducted

→ II may make reference to or rely on those assessment **provided that the assessments adequately reflect ML/TF risks posed to the II in the local context**

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THANK YOU